

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of October 26, 1993

7:00 p.m.

- A. Open session to announce adjournment to closed session on negotiations with Peter and Pamela Fraser for the exchange of real property.
- B. Closed session regarding negotiations with Peter and Pamela Fraser for the exchange of real property.

8:00 p.m.

1. CALL TO ORDER.

Mayor Chignell convened the regular meeting, with Council Members Breen, Kanis, Yarish, and Zaharoff present.

2. OPEN TIME FOR PUBLIC EXPRESSION.

Sarah Nome, 77 Alder Avenue, said that two properties in her neighborhood appear to be building second units, despite requirements against them, including a deed restriction.

Kathleen Sanders, 310 Redwood Road, said there had been dumping of paint in a creekbed around 390 Redwood Road. A no dumping sign was suggested.

3. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND DIRECTIONS TO STAFF; STAFF MISCELLANEOUS ITEMS.

Berkeley Avenue - Yarish inquired about Berkeley Avenue traffic measures. Public Works Director Bush reported that the next step was to paint the sidewalk and look at the proposal for a 15 miles per hour speed limit.

Creek dumping, teacher recognition - Chignell alerted staff to dumping in the creek between Calumet and Karl, and asked that Michelle Swanson, drama teacher at Sir Francis Drake High School, be recognized by the Council for her selection as Marin County Teacher of the Year.

14 Oak Knoll - Town Administrator Bonander reported that the house has been ordered vacated due to its hazardous condition.

4. CONSENT AGENDA.

- (a) Approve minutes: October 12, 1993.
- (b) Acknowledge and file financial reports through September 30, 1993.
- (c) Announce expiration of term, San Anselmo representative to the Marin/Sonoma Mosquito Abatement District Board of Trustees.
- (d) Approve key and fee program for use of the Red Hill Tennis Courts.
- (e) Continue to November 9, 1993: Appeal by Theodore Posthuma from denial by the Planning Commission of an application for a second unit on 379 Oak Avenue (NU-9302), and proposed amendment to design review (DR-9120).

(a) Minutes: Sarah Nome, 77 Alder Avenue, said the minutes from June had not yet been endorsed, and that they should be prepared within a week after the meeting.

(d) Tennis Courts: Council Members inquired about the proposal to charge an annual fee for publicly owned courts, and whether there was experience with

5. CONSENT AGENDA.

- (a) Approve minutes: September 28, 1993.
- (b) Acknowledge and file warrants: Nos. 13370-13648, in the amount of \$505,336.90.
- (c) Approve resolution authorizing application for grant funds from the Used Oil Recycling Fund.
- (d) Approve agreement to provide police dispatch services for the Town of Ross and Marin Community College District.
- (e) Continue to October 26, 1993: Introduce ordinance amending Chapter 3 of Title 10, Article 4 (Development Standards), and Article 7 Procedures), of the zoning ordinance relative to the maximum size of dwellings on residential properties located above 150 mean sea level elevation.

M/s, Kanis/Zaharoff, to approve the consent agenda. Motion passed unanimously.

6. APPOINTMENTS: OPEN SPACE COMMITTEE (3 seats)

M/s, Zaharoff/Yarish, to appoint Lise Stampfli-Torme, Jonathan Braun, and Judith Hodgens, to terms to expire October, 1997. . Motion passed unanimously.

7. DISCUSS ROAD CONDITIONS AND TRAFFIC MANAGEMENT ON BERKELEY AVENUE.

Town Administrator Bonander presented the staff report.

Yarish inquired about the legality of creating a cul-de-sac as requested by the neighbors in a petition. Kanis asked how many unaccented streets there were in San Anselmo; Bush responded approximately ten percent.

Kay Barnett, 21 Berkeley Avenue, submitted a petition stating that 13 out of 16 residents want emergency vehicle friendly barrier at the end of The Alameda. The proposal was to keep street open to public access on Broadmoor end, and close it at The Alameda end. She said that when Berkeley Avenue was closed during construction, the street was used by children and neighbors. Due to speed and number of cars, most pedestrians have picked another route other than the easement. She read from the General Plan policy to promote traffic safety by channeling, divert traffic away from residential areas, including possibly limited traffic controls, and said that having 200 cars use Berkeley during rush hour does not meet General Plan. She suggested a 15 mile per hour speed limit, and would like to see the city or county take over maintenance of culverts

Terry Campbell, 20 Berkeley, said it will take a calamity to make something happen on traffic safety; people drive down street too fast.

Tom McNeil, Berkeley Avenue, said he and his neighbors have come close to agreement. They have received such little support from Town staff to do anything about controlling traffic; that's why they're asking to close the street.

M/s, Zaharoff/Kanis, to approve the staff recommendation, with staff to report back on lowering the speed limit to 15 miles per hour, and a study of the cul-de-sac request. Motion passed unanimously.

8. REVIEW INSURANCE REQUIREMENTS FOR REAL ESTATE SIGNS IN THE PUBLIC RIGHT-OF-WAY.

Assistant Administrator Pollard presented the staff report.

Bob Holmes, Marin Association of Realtors, said that the insurance requirements are too strict, and questioned why other businesses that placed signs in the right-of-way did not require insurance.

Richard Nagley, Butterfield Road, expressed concern about a child riding a bicycle and hitting a sign placed in the right-of-way and ending up in the street.

M/s, Zaharoff/Kanis, that the workers compensation and automobile liability insurance provisions be dropped, that the liability insurance minimum be set at \$1 million, that the Town be named as an additional insured, and that encroachment application form be reduced to approximately one page, and that a certificate of insurance be an acceptable proof of insurance. Motion passed by the following vote:

AYES: Breen, Kanis, Zaharoff

NOES: Chignell, Yarish

9. INTRODUCE ORDINANCE PROHIBITING TOBACCO SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT, EXCEPT BARS AND TOBACCO STORES, AND PROHIBITING THE SALE OF TOBACCO PRODUCTS BY VENDING MACHINES.

Assistant Administrator Pollard presented the staff report. Breen reported on the public workshops with the community regarding smoking regulations.

Elizabeth Emerson, Planner with the County of Marin health Department, said there was a state grant which allowed \$4,000 to be available to implement the ordinance in San Anselmo, such as with a brochure advertising businesses that are smoke-free.

Rick Kropp, President of the North Bay Health Resources Center, spoke in support of the ordinance, notably the provisions protecting children and employees from secondhand smoke, and the provisions that prohibit the sale of cigarettes except by over-the-counter sales.

Robert Ferroggiaro, 120 Laurel Avenue, spoke against the ordinance. He questioned the validity of the statistics cited regarding cancer deaths from secondhand smoke, and felt that it was a question of abuse of smokers.

Randy Greenberg, Smoke Free Marin Coalition, said that when the rules are consistent among the cities, it levels the playing field for the businesses. She said there was no smoking while dining in any of the six ordinances adopted by other jurisdictions in Marin, and expressed concern about smoking taking place indoors where children are present.

Richard Nagley, Butterfield Road, said he hoped that the Chamber and County health Department would work together on implementation and publicity.

Ted Janko, owner of Ted's, said the employment ads are filled with opportunities for waiters and waitresses who may be seeking a smoke-free work environment. He said that an owner of a business similar to his in another city had lost 50

off Foothill. Considering that the access routes are not adequate, the Town could not close its eyes to the safety concerns, particularly if there is a better location. The soils report is the most important piece of information for hillside properties, and the report stated that these three trees must remain; If the house must be sited on Humboldt, she wanted the trees to remain.

Kanis noted that the property owner has rights to build on the property, unless Town or neighborhood wants to buy property. He wanted to look at having access to this property from Foothill, and was concerned about removing parking from Humboldt.

Yarish inquired as to whether any heritage trees were being removed and inquired about placement of house on lower portion of the lot. Chaney said the lower location may have a greater impact on the neighboring house, and require more excavation. Yarish felt that soils engineers do not give arbitrary decisions because of the liability risks. He proposed that several diagonal parking spaces be built on the 137 Humboldt frontage.

The applicant said he would support Yarish's idea. He said that excavation was more difficult on the Foothill access, and would require more retaining walls.

Breen wanted to take a look at the Foothill access, and consider Yarish's parking idea.

Chignell said that Council struggles with development, parking, and traffic, and always look for ways to pave the streets. He said the design review aspect of the application merits careful consideration as well, and noted that he could not make the findings for approval.

M/s, Zaharoff/Kanis, to grant the appeal for the Hartes regarding the application for 137 Humboldt, for the reason that they are unable to make the findings that it will not be detrimental to the public health and safety, as they relate to parking, soils stability, and for traffic flow in that area. Motion passed by the following vote:

AYES: Breen, Kanis, Zaharoff, Chignell

NOES: Yarish

11. APPEAL OF THE PUBLIC WORKS DIRECTOR'S CONDITION ON THE BUILDING PERMIT FOR 22 MAGNOLIA THAT MAGNOLIA AVENUE BE REPAVED.

Public Works Director Bush presented the staff report. He reported that he will be including requirements for paving for new developments.

Selwyn Hoag, project applicant, said he understood the Town seeking to find whatever sources of funding are available for paving. However, his frontage is only five to ten percent of the length of the pavement being required, and the paving would primarily benefit the Town and the merchants accessing the Town employee lot and Magnolia public lot. His plans were for a modestly designed semi-townhouse structure that includes a clinic for chronically and terminally ill persons in which his wife will work as a therapist. They are funding the project themselves, are meeting several other requirements, have had to make many cuts in the cost of the project, and felt it was an undue hardship to bear the full pavement cost.

M/s, Breen/Kanis, to require the applicant to pay 25 percent of the cost of paving Magnolia from San Anselmo Avenue through 22 Magnolia, with the Town to pay the remaining 75 percent. Motion passed unanimously.

12. APPROVE RESOLUTION ESTABLISHING FEES FOR ISSUANCE OF PERMITS UNDER THE PROVISIONS OF THE UNIFORM FIRE CODE.

M/S, Yarish/Zaharoff, to approve the resolution. Motion passed unanimously.

13. INTRODUCE ORDINANCE AMENDING CHAPTER 3 OF TITLE 10, ARTICLE 4 (DEVELOPMENT STANDARDS), AND ARTICLE 7 (PROCEDURES), OF THE ZONING ORDINANCE RELATIVE TO THE MAXIMUM SIZE OF DWELLINGS ON RESIDENTIAL PROPERTIES LOCATED ABOVE 150 MEAN SEA LEVEL ELEVATION.

Planning Director Chaney presented the staff report.

Jonathan Braun, Scenic Avenue, said he did not agree with the conditions, said that the standards in table 40 are adequate and generous, and there could be cases where some additional square footage does not have an impact. If there is to be a cap, he suggested no more than 10 percent above table's maximum. The only way to adequately evaluate that a project is not materially visible is through a professional analysis; otherwise it is too subjective. He questioned the enforceability of screening requirements, and wanted to see a provision for re inspection every two to five years.

Kathy Sanders, Chair of the Open Space Committee, expressed concern about the ordinance because the development will take place on highly visible hillsides. She suggested adding a preamble on why the table exists, and noted that enforcement is moot once trees have already been removed.

Jerry Draper, San Francisco Boulevard, said there was a strong desire by people to know what the rules are, and people ought to go by the rules. People are tired of struggling over each addition, and it creates a confrontative neighbor against neighbor.

Jeff Kroot, Planning Commissioner, said as an architect he does not look at the maximum size and design to that level. He said it occurred to the Planning Commission that they needed a size limitation. If the site is virtually invisible, people could perhaps exceed size limitation. He felt the variance procedure would be easier to defend in court.

Yarish said there were awkward situations where minor additions were being requested in excess of the size limits that were difficult to grant because of the findings, whereas this ordinance will allow the use of discretion where appropriate.

Kanis said the public has a right to know in advance what the limits area, that it has been established that Town wants to control development size, and the ordinance ordinance needs to be modified to include references to landscaping.

Zaharoff said the limitation was intended for visible and non-visible sites; in every application for new construction the issue of size comes up, which pits the neighborhood against person wanting change. All review is done on subjective type standards, whereas the table takes it out of the subjective realm, which benefits the neighborhood and applicant because they know up front what the limits are.

Breen supported provided information up front to realtors and developers, and supported the ordinance with a reference to the General Plan and the continuous maintenance of landscaping.

Chignell said that laws are also there to protect the minority, and there are people who have very special circumstances where a rigid table does not protect their rights, their development is appropriate for the property. He agreed on the general plan language and enforcement on visual screening.

M/s, Yarish/Breen, to approve ordinance amendment which is modified to include strict enforcement of screening and maintenance of screening, and includes the preamble excerpted from General Plan referring to neighborhood compatibility and protecting

ridges of san Anselmo, with the requirement of a professional photo analysis in order to be granted an exception from Table 4. Motion passed by the following vote:

AYES: Breen, Kanis, Yarish, Chignell

NOES: Zaharoff

14. ESTABLISH AD-HOC COMMITTEE TO REVIEW STRUCTURE, POLICIES, AND PROCEDURES OF THE ART COMMISSION.

This item was continued to the next regular meeting.

15. ADOPT TRIP REDUCTION ORDINANCE TO COMPLY WITH PROPOSITION 111, WHICH REQUIRES EMPLOYERS OF MORE THAN 100 EMPLOYEES PER WORK SITE TO CONDUCT SURVEYS AND DEVELOP TRIP REDUCTION PLANS.

M/S, Breen/Yarish, to adopt Ordinance No. 952. Motion passed unanimously.

16. ENDORSE THE RECOMMENDATIONS OF THE MT. TAMALPAIS AREA VEGETATION MANAGEMENT PLAN, AS PREPARED BY THE MARIN MUNICIPAL WATER DISTRICT AND THE MARIN COUNTY OPEN SPACE DISTRICT.

Jonathan Braun, Scenic Avenue, objected to using controlled burning because the fires can get too hot and kill nearby trees.

Kanis commented that he had seen compelling information on why controlled burning is necessary and better than the alternatives.

M/S, Breen/Kanis, to endorse the recommendations. Motion passed by the following vote:

AYES: Breen, Kanis, Yarish

NOES: Zaharoff

ABSTAIN: Chignell

17. ESTABLISH PROCESS FOR PUBLIC PARTICIPATION IN DEVELOPING PLANS FOR ACCESS OF PERSONS WITH DISABILITIES TO TOWN SERVICES, IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT.

M/S, Zaharoff/Breen, to invite persons in the local community who have disabilities to participate on a staff-community advisory committee to develop plans for access to Town services and programs by persons with disabilities. Motion passed unanimously.

18. APPOINT VOTING DELEGATE TO THE ANNUAL CONFERENCE OF THE LEAGUE OF CALIFORNIA CITIES.

M/S, Breen/Kanis, to appoint Town Administrator Bonander as the delegate and Assistant Administrator Pollard as the alternate. Motion passed unanimously.

19. ADJOURN.

The meeting was adjourned at 11:30 p.m.